

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6840
BILL NUMBER: SB 201

NOTE PREPARED: Feb 16, 2009
BILL AMENDED: Feb 16, 2009

SUBJECT: State Energy Policy.

FIRST AUTHOR: Sen. Gard
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill allows a public utility that proposes to take, acquire, condemn, or appropriate land, real estate, or any interest in land or real estate for certain projects related to electric line facilities to obtain from the Indiana Utility Regulatory Commission (IURC) a certificate of authority. It requires the IURC to hold a public hearing and to find that the public utility has demonstrated certain elements, and to encourage investment in electric line facilities by creating financial incentives that the IURC finds to be reasonable and necessary.

This bill modifies common law to provide that the owner of land against which eminent domain is initiated may object to the public purpose and necessity of the project only if the condemnor has not been issued a certificate of authority. It requires the IURC to allow the recovery of reasonable and necessary costs incurred by an energy utility in connection with a green infrastructure project that provides electric, steam, or gas service to or receives electric, steam, or gas service from an alternate energy production facility. It also provides that an energy utility may implement a rate adjustment if the IURC fails to act on an application.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: (Revised) *IURC* :This bill will increase administrative expenditures of the IURC by requiring the IURC to evaluate applications to determine eligibility for financial incentives. The bill provides that an application is considered approved after 120 days if the IURC fails to make a decision, and an energy utility may implement rate adjustments to recover costs.

The bill also requires the IURC to conduct public hearings related to issuance of a certificate of authority for certain projects by a public utility. The bill provides that an application is considered approved after 120

days if the IURC fails to make a decision. It is estimated that the IURC could implement these provisions with its existing level of resources.

State & Local Utility Expenditures: This bill could also increase expenditures by state and local agencies for utilities to the extent that the provisions allowing for cost recovery would increase utility rates. The overall impact on expenditures is indeterminable.

Explanation of State Revenues: *Utility Rate Increases:* It is estimated that utility rates could increase under the bill due to the provision allowing for reasonable and necessary cost recovery associated with green infrastructure projects that provide electric, steam, or gas service to an alternate energy production facility. To the extent that any of the provisions of this bill increase utility rates, there could be an increase in Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The amount of any increase is indeterminable and will depend on rate adjustments allowed by the IURC for cost recovery or in cases where the IURC fails to make a decision in 120 days, the rate adjustments implemented by the energy utility for cost recovery.

(Revised) *Background Information - Green Infrastructure Incentive Program:* This bill establishes a program to encourage green infrastructure projects by allowing the timely recovery of costs incurred by a public utility in connection with a green infrastructure project. As used in this bill, "green infrastructure project" means the construction, addition, extension, or improvement of an energy utility's plant or equipment to provide electric, steam, or gas service to or receive electric, steam, or gas service from an alternate energy production facility or a renewable energy resource (as defined in IC 8-1-8.8-10).

As used in this bill, "energy utility" has the meaning set forth in IC 8-1-2.5-2 and is defined as a public utility or a municipally owned utility within the meaning of IC 8-1-2-1, or a local district corporation or a general district corporation within the meaning of IC 8-1-13-23, engaged in the production, transmission, delivery, or furnishing of heat, light, or power.

As used in this bill, "public utility" has the meaning set forth in IC 8-1-2-1. The term does not include municipally owned utilities.

Taxes: The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund.

Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.670%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures: See *Explanation of State Expenditures*.

Explanation of Local Revenues:

State Agencies Affected: IURC; All.

Local Agencies Affected: Municipally owned utilities; All

Information Sources:

Fiscal Analyst: Diana Agidi, 317-232-9867 .